

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

FREDERICK QUINT

-Plaintiff

Vs.

Civil Action No.

FIRST UNUM LIFE INSURANCE COMPANY

and

MONRO MUFFLER BRAKE, INC.

-Defendants

COMPLAINT

1. This is an action arising under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sections 1001 et. Seq., ("ERISA") to recover benefits due under employee benefit plans, and to recover costs and attorneys fees.

Jurisdiction and Venue

2. This is an action brought pursuant to Sections 502(a), (e) (1), and (f) of ERISA, 29 U.S.C. Sections 1132(a), (e) (1), and (f). This Honorable Court has subject matter jurisdiction pursuant to 29 U.S.C. Section 1132 (e) (1) and 28 U.S.C. Section 1331. Under Section 502(f) of ERISA, 29 U.S.C. Section 1132(f), this Honorable Court has jurisdiction without respect to the amount in controversy or the citizenship of the parties.
3. Venue is properly laid in this District pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. Section 1132(e)(2), in that the subject Employee Benefit Plans are administered in this District and the breaches of duty herein alleged occurred in this

District and one or more of the Defendants resides or is found in this District, and, pursuant to 28 U.S.C. Section 1391(b), in that the cause of action arose in this District.

Parties

4. Plaintiff Frederick Quint resides at 1910 Sharps Lot Road, Swansea, Massachusetts. He is a resident and citizen of Massachusetts.
5. On or about June 1, 1999, Mr. Quint became employed by Defendant Monro Muffler Brake, Inc. (hereafter “Monro”) at its facility located at 742 G.A.R. Highway, Swansea, Massachusetts 02777 and remained so employed through at least August, 2004.
6. Mr. Quint was at all relevant times, a participant in a Long Term Disability Plan (hereafter “LTD Plan”) and Life Insurance Plan (hereafter “Life Plan”) provided by Monro.
7. The LTD Plan provided eligible participants a monthly benefit.
8. The Life Plan provided eligible participants, among other things, life insurance and accidental death and dismemberment insurance and waiver of premium entitlement.
9. Monro is the Plan Sponsor and Plan Administrator of the LTD Plan.
10. Monro is the Plan Sponsor and Plan Administrator of the Life Plan.
11. First Unum Life Insurance Company (hereafter “Unum”) was retained by Monro to and did provide the insurance coverage of the LTD Plan and the Life Plan.
12. Unum was the benefit administrator of the LTD Plan and the Life Plan.
13. Monro is an “Administrator” of the Life Plan within the meaning of Section 3(16)(A) of ERISA, 29 U.S.C. Section 1002(13)(A); and a “Fiduciary” of the Life Plan within

the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. Section 1002(21)(A); and a “Party in Interest” within the meaning of Section 3(14) of ERISA, 29 U.S.C. Section 1002(14).

14. Monro is an “Administrator” of the LTD Plan within the meaning of Section 3(16)(A) of ERISA, 29 U.S.C. Section 1002(13)(A); and a “Fiduciary” of the LTD Plan within the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. Section 1002(21)(A); and a “Party in Interest” within the meaning of Section 3(14) of ERISA, 29 U.S.C. Section 1002(14).

15. Unum is an “Administrator” of the Life Plan within the meaning of Section 3(16)(A) of ERISA, 29 U.S.C. Section 1002(13)(A); and a “Fiduciary” of the Life Plan within the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. Section 1002(21)(A); and a “Party in Interest” within the meaning of Section 3(14) of ERISA, 29 U.S.C. Section 1002(14).

16. Unum is an “Administrator” of the LTD Plan within the meaning of Section 3(16)(A) of ERISA, 29 U.S.C. Section 1002(13)(A); and a “Fiduciary” of the LTD Plan within the meaning of Section 3(21)(A) of ERISA, 29 U.S.C. Section 1002(21)(A); and a “Party in Interest” within the meaning of Section 3(14) of ERISA, 29 U.S.C. Section 1002(14).

17. Monro is the agent for service of both the Life Plan and the LTD Plan and its address for service is Monro Muffler Brake, Inc., 200 Holleder Parkway, Rochester, N.Y. 4615.

18. The address of the Unum office which has made the decision to deny benefits to Mr. Quint is Unum Appeals Unit, P.O. Box 9548, Portland, Maine 04104-5058.

19. On or about August 15, 2004, Mr. Quint left work at Monro due to, among other things, a disabling back condition.
20. Unum approved benefits under the LTD Plan and a waiver of Premium and other benefits under the Life Plan effective on or about November 13, 2004.
21. By letter dated December 14, 2007, Unum informed Mr. Quint that it was terminating benefits under the LTD Plan effective on or about 12/14/07.
22. Unum terminated Mr. Quint's waiver of premium benefit and other benefits under the Life Plan effective on or about 12/14/07.
23. Mr. Quint, through his representative, filed a timely appeal of the December, 2007 termination decisions of Unum.
24. By letter dated August 7, 2008, Unum denied Mr. Quint's appeal and affirmed its decision to terminate benefits under the LTD Plan and Life Plan.
25. At all relevant times, Mr. Quint has been "Totally disabled" as that term is defined in the LTD Plan and the Life Plan.
26. By denying Mr. Quint' request for and appeal for continuation of benefits under the LTD Plan and the Life Plan, Defendants have violated the LTD Plan and the Life Plan, acted arbitrarily and capriciously, and violated ERISA.

Wherefore, Plaintiff Frederick Quint respectfully requests that this Honorable Court issue Judgment against Defendants:

- a. reversing Defendants' decisions to deny Mr. Quint benefits under the LTD Plan and the Life Plan;
- b. requiring Defendants to grant Mr. Quint long term disability benefits under the LTD Plan;

- c. requiring Defendants to grant waiver of premium benefits and other benefits under the Life Plan;
- d. awarding attorneys fees and costs;
- e. awarding any other relief that is just and proper.

Dated: November 21, 2009

FREDERICK QUINT,
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